

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

NATHANIEL SHAW, *
*
Plaintiff, *
*
vs. * Civil Action No.
* 2:07-CV-606-ID
*
D. T. MARSHALL, et al., *
*
Defendants. *

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION REQUESTING LEAVE
TO FILE MOTION FOR CONTEMPT OF PERJURY
AND SUPPLEMENT TO FACTS IN SPECIAL REPORT**

COME NOW the Defendants D. T. Marshall, Gina M. Savage, Cassandra Smith and Sondra Wright, and for response to Plaintiff's Motion Requesting Leave to File Motion for Contempt of Perjury, requests that this Court deny said motion and as grounds shows as follows:

1. Plaintiff claims that the Affidavit of Gina M. Savage incorrectly identifies the date he was incarcerated at the Montgomery County Detention Facility as May 8, 2007 instead of May 9, 2007. When Defendant prepared her affidavit, she used the date from the police report that shows that Plaintiff was arrested on May 8, 2007. (See Affidavit of Gina M. Savage, ¶ 2, and attachment thereto) Plaintiff's correct date of incarceration is in fact May 9, 2007. This was an inadvertent mistake on the part of the Defendant Savage and was not made for the purpose of misrepresenting the facts in the Defendants' Special Report. (Affidavit of Gina M. Savage, ¶ 2) Defendants hereby

amend their Special Report to show that Plaintiff was incarcerated at the Montgomery County Detention Facility on May 9, 2007

2. Plaintiff also claims that the Affidavit of Gina M. Savage incorrectly states that recreation was available to the Plaintiff on May 3, 2007. When preparing her affidavit, Defendant Savage submitted the list of dates and times when recreation was available to the 3-B cellblock where the Plaintiff was housed. Plaintiff entered the facility in May and filed his complaint in July. Defendant Savage therefore listed the recreation times that were available to 3-B cellblock for the months of May-July, 2007. Since Plaintiff was not incarcerated at the facility until May 9, 2007, however, recreation was not available to the Plaintiff on May 3, 2007. Plaintiff was offered recreation on the other dates listed, May 31, June 28 and July 16, but he refused to participate. Including May 3 as one of the dates offered to the Plaintiff was an unintentional oversight on the part of Defendant Savage, and was not a knowing misstatement, nor was it made for the purpose of misrepresenting the facts in the Defendants' Special Report. Defendants amend their Special Report by stating that the times recreation were made available to the Plaintiff were May 31, June 28 and July 16, 2007.

/s/Constance C. Walker

Thomas T. Gallion, III (ASB-5295-L74T)
Constance C. Walker (ASB-5510-L66C)
Attorneys for Defendants D.T. Marshall,
Gina M. Savage, Cassandra Smith and
Sondra Wright

OF COUNSEL:

HASKELL SLAUGHTER YOUNG & GALLION, L.L.C.

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Montgomery, Alabama 36103-4660

(334) 265-8573

(334) 264-7945 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October, 2007, I electronically filed the foregoing with the Clerk of the Court using the **CM/ECF** system that will send notification of such filing to the following counsel:

Wayne P. Turner
Post Office Box 152
Montgomery, Alabama 36101-0152

Allison H. Highley
City of Montgomery
Legal Department
Post Office Box 1111
Montgomery, Alabama 36101

and that I caused a true and complete copy of same to be deposited in **the United States Mail**, sufficient first class postage prepaid, on this the 12th day of October, 2007, addressed as follows:

Nathaniel Shaw
Montgomery County Detention Facility
Post Office Box 4599
Montgomery, Alabama 36103

s/Constance C. Walker
Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

NATHANIEL SHAW,)
Plaintiff,)
v.) CIVIL ACTION NO. 2:07-CV-606-ID
D. T. MARSHALL, et al.,)
Defendants.)

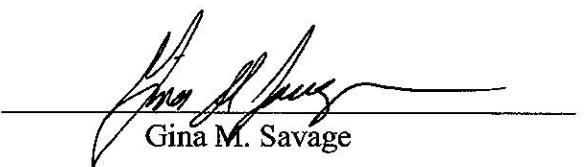
AFFIDAVIT OF GINA M. SAVAGE

Before me, a Notary Public, personally appeared Gina M. Savage and after being duly sworn, did say as follows

1. My name is Gina Savage. I am Director of the Montgomery County Sheriff's Office Detention Facility.
2. In response to Inmate Nathaniel Shaw's allegations of perjury, I offer the following. When compiling my answer to charges submitted by Inmate Shaw, I picked up the date he was arrested from the police report which shows May 8, 2007. (See attached) Our records show he was booked into the Montgomery County Detention on May 9, 2007.

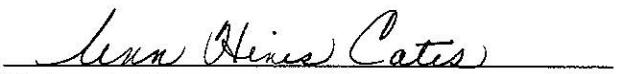
Inmate Shaw's statement that he was not incarcerated on May 3, 2007, therefore recreation was not offered to him is correct. I submitted a list of the times recreation was offered to the 3-B cellblock, where Inmate Shaw has been housed, beginning with the month of May through the month of July 2007. He filed his complaint July 16, 2007.

Each of these items regarding dates is simply an oversight on our part and in no way should be construed as an intentional act or as being purposely used to misrepresent facts in our response.



Gina M. Savage

Sworn to and subscribed before me this 4th day of October, 2007.



Lynn Hines Cates
Notary Public
My Commission Expires September 13, 2010

ALABAMA UNIFORM ARREST REPORT

Fingerprinted	R84 Completed
<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
<input type="checkbox"/> No	<input type="checkbox"/> No

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

IDENTIFICATION	1 ORI#	2 AGENCY NAME	3 CASE #	4 SFX										
	0 0 3 0 1 0 0	Montgomery Police Department	0 7	-										
	5 LAST, FIRST, MIDDLE NAME Shaw, Nathaniel			6 ALIAS AKA										
	7 SEX	8 RACE	9 HGT.	10 WGT.	11 EYE	12 HAIR	13 SKIN	14	SCARS	MARKS	TATTOOS	AMPUTATIONS		
	<input checked="" type="checkbox"/> M	<input type="checkbox"/> W <input type="checkbox"/> A	6'02	180	Brn	Blk	Med							
	15 PLACE OF BIRTH (CITY, COUNTY, STATE) Florida			16 SSN 2 6 7 - 8 4 - 0 4 3 3			17 DATE OF BIRTH 0 3 0 1 4 9			18 AGE	19 MISCELLANEOUS ID # 58			
	20 SID #		21 FINGERPRINT CLASS KEY HENRY CLASS										22 DL #	23 ST
	24 FBI #		NCIC CLASS										25 IDENTIFICATION COMMENTS	
	26 <input type="checkbox"/> RESIDENT <input checked="" type="checkbox"/> NON-RESIDENT		27 HOME ADDRESS (STREET, CITY, STATE, ZIP) 9445 Carbondale Dr W Jacksonville Fl 32208			28 RESIDENCE PHONE (334)			29 OCCUPATION (BE SPECIFIC) Unemployed					
	30 EMPLOYER (NAME OF COMPANY/SCHOOL)				31 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)						32 BUSINESS PHONE ()			
ARREST	33 LOCATION OF ARREST (STREET, CITY, STATE, ZIP) Pulix on Atlanta Highway				34 SECTOR # 0 5			35 ARRESTED FOR YOUR JURISDICTION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> IN STATE <input type="checkbox"/> OUT STATE <input type="checkbox"/> AGENCY						
	36 CONDITION OF ARRESTEE: <input type="checkbox"/> DRUNK <input type="checkbox"/> SOBER <input type="checkbox"/> DRINKING <input checked="" type="checkbox"/> DRUGS				37 RESIST ARREST? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			38 INJURIES? <input checked="" type="checkbox"/> NONE <input type="checkbox"/> YES <input type="checkbox"/> NO			39 ARMED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			
	41 DATE OF ARREST 0 5 0 8 0 7		42 TIME OF ARREST 12:30 <input type="checkbox"/> 1. AM <input checked="" type="checkbox"/> 2. PM		43 DAY OF ARREST S M T W T F S			44 TYPE OF ARREST <input type="checkbox"/> ON VIEW <input type="checkbox"/> CALL <input type="checkbox"/> WARRANT			45 ARRESTED BEFORE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
	46 CHARGE-1 <input checked="" type="checkbox"/> FEL <input type="checkbox"/> MISD C.P.F.I. 2nd x3				47 UCR CODE			48 CHARGE-2 <input checked="" type="checkbox"/> FEL <input type="checkbox"/> MISD Theft of Property 1st by Deception			49 UCR CODE			
	50 STATE CODE/LOCAL ORDINANCE		51 WARRANT #		52 DATE ISSUED M D Y			53 STATE CODE/LOCAL ORDINANCE			54 WARRANT #			
	56 CHARGE-3 <input checked="" type="checkbox"/> FEL <input type="checkbox"/> MISD Tafficing in Stolen Indenties				57 UCR CODE			58 CHARGE-4 <input checked="" type="checkbox"/> FEL <input type="checkbox"/> MISD Posseion of a Controlled Substance			59 UCR CODE			
	60 STATE CODE/LOCAL ORDINANCE		61 WARRANT #		62 DATE ISSUED M D Y			63 STATE CODE/LOCAL ORDINANCE			64 WARRANT #			
	66 ARREST DISPOSITION <input type="checkbox"/> HELD <input type="checkbox"/> TOT-LE <input type="checkbox"/> BAIL <input type="checkbox"/> OTHER <input type="checkbox"/> RELEASED				67 IF OUT ON RELEASE WHAT TYPE?			68 ARRESTED WITH (1) ACCOMPLICE (FULL NAME)						
								69 ARRESTED WITH (2) ACCOMPLICE (FULL NAME)						
	VEHICLE	70 VVR	71 VMA	72 VMO	73 VST	74 VCO TOP BOTTOM			75 TAG #			76 LIS	77 LIY	
78 VIN														
81 OTHER EVIDENCE SEIZED/PROPERTY SEIZED						79 IMPOUNDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			80 STORAGE LOCATION / IMPOUND #					
82 JUVENILE <input type="checkbox"/> HANDLED AND RELEASED <input type="checkbox"/> REF. TO WELFARE AGENCY <input type="checkbox"/> REF. TO ADULT COURT DISPOSITION: <input type="checkbox"/> REF. TO JUVENILE COURT <input type="checkbox"/> REF. TO OTHER POLICE AGENCY														
84 PARENT OR GUARDIAN (LAST, FIRST, MIDDLE NAME)						85 ADDRESS (STREET, CITY, STATE, ZIP)			86 PHONE ()					
87 PARENTS EMPLOYER			88 OCCUPATION			89 ADDRESS (STREET, CITY, STATE, ZIP)			90 PHONE ()					
91 DATE AND TIME OF RELEASE 0 5 0 8 0 7 1. AM <input checked="" type="checkbox"/> 2. PM		92 RELEASING OFFICER NAME J W Hall			93 AGENCY/DIVISION MPD / Dectective			94 ID # 1316						
95 RELEASED TO: M.C.D.F.		96 AGENCY/DIVISION M.C.S.O.			97 AGENCY ADDRESS 250 N. McDonough St Montgomery			100 PROPERTY #						
98 PERSONAL PROPERTY RELEASED TO ARRESTEE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> PARTIAL														
99 PROPERTY NOT RELEASED/HELD AT:														
101 REMARKS (NOTE ANY INJURIES AT TIME OF RELEASE) ****NONE****														
HOLD FOR PRATTVILLE														
HOLD FOR Florida - Camden S.O.														
102 SIGNATURE OF RECEIVING OFFICER				103 SIGNATURE OF RELEASING OFFICER G. J. Hall										
MULTIPLE CASES CLOSED		104 CASE #	105 SFX	106 CASE #	107 SFX	108 CASE #	109 SFX	110 ADDITIONAL CASES CLOSED NARRATIVE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO						
111 ARRESTING OFFICER (LAST, FIRST, M.) Coughlin C J				112 ID # 1008	113 ARRESTING OFFICER (LAST, FIRST, M.) Hall J W			114 ID # 1316	115 SUPERVISOR ID #		116 WATCH CMDR. ID #			

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